

**REMARKS**

Upon consideration of the above amendments and following remarks, reconsideration and allowance of this application are respectfully requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 USC §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Claims 2-13, 17, 19, 21 and 23-26 and amended claims 1, 14-16, 18, 20 and 22 are in this application.

At paragraph 4 of the outstanding Office Action of February 20, 2004 the Examiner objected to the amendment filed February 4, 2004 under 35 U.S.C. 132 because the Examiner stated that it introduces new matter into the disclosure. Specifically, the Examiner indicated that the phrase “all users” is not supported in the original disclosure. Applicants have changed the phrase “all users” to “a plurality of users” which has extensive support throughout the original disclosure.

Support for the limitation “plurality of users” can be found at several portions of the present specification. Specifically, at page 11, lines 16-22 and at page 12, lines 14-23 the specification mentions “so that as many users 30 as possible” may access the contents from an information offerer if the number of distributions h reaches a predetermined number set by the information offerer. (Emphasis ours) Also, at page 13, lines 2-4, it states that “the desired contents of the user 30 rise and fall in the billed amount...depending on the number of

distributions h within the predetermined time period.” As a result, the number of distributions h is based on the counting of the number of users. Once this number is known, the information offerer can determine the amount to be billed to each user. Therefore, the actual amount billed depends on the total number of downloads for the total number of users.

At page 21, lines 6-16 indicate that when the number of distributions reach a predetermined number then this “enables the contents to be provided for still more users 30.” (Emphasis ours) Furthermore, the number of distributions must pertain to more than one user. For example, at page 14, lines 17-25 it states that if the number of distributions is 1000 times or even 10,000 times then the billing rate changes. It is inconceivable that one user would download and pay for the same, for instance, music file 10,000 times. This scenario just doesn’t make sense for either the purchaser or the distributor of specific information. Therefore, a plurality of users must be accessing the same information in order to prompt the system to administer, for instance, a discount to the rest of the users or to the existing users.

Applicants therefore respectfully request that the 35 U.S.C. 132 objection be withdrawn.

At paragraph 6 of the outstanding Office Action of February 20, 2004 the Examiner rejected claims 1, 14-16, 18, 20 and 22 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonable convey to one skilled in the relevant art that the inventors, at the time of the application was filed, had possession of the claimed invention. Specifically, the Examiner indicated that the phrase “all users” is not supported in the original disclosure. Applicants have changed the phrase “all users” to “a plurality of users” which has extensive support throughout the original disclosure as described

above. Applicants therefore respectfully request that the 112, first paragraph rejection to claims 1, 14-16, 18, 20 and 22 be withdrawn.

At paragraphs 8-9 of the outstanding Office Action of February 20, 2004 the Examiner rejected claims 1-22 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Examiner indicated that the phrase “all users” is not supported in the original disclosure. Applicants have changed the phrase “all users” to “a plurality of users” which has extensive support throughout the original disclosure as described above. Applicants therefore respectfully request that the 112, second paragraph rejection to claims 1-22 be withdrawn.

At paragraph 11 of the outstanding Office Action of February 20, 2004 the Examiner rejected claims 1-22 under 35 U.S.C. 103(a) as being unpatentable over Rosenthal (U.S. Patent No. 6,148,301) in view of Christenson et al. (U.S. Patent No. 6,324,620) in further view of Dedrick (U.S. Patent No. 6,016,509). Applicants respectfully traverse the rejection.

Amended independent claim 1, recites in part, “An information distributing method for distributing information...determined depending on the number of times that said information has previously been distributed to **a plurality of users** within a predetermined time period...” (Underlining and bold added for emphasis.) Applicants respectfully traverse the rejection.

Applicants submit that the applied combination of Rosenthal, Christenson and Dedrick relied upon by the Examiner fail to depict the above-recited feature of the claimed invention.

At paragraph 5 of the present Office Action the Examiner stated that “the combination of Rosenthal and Christenson et al. fail to teach an inventive concept wherein the amount billed being determined independently each time the information is distributed.” The Examiner relied only on Dedrick to teach the above-mentioned limitation and therefore reject claims 1-22.

Dedrick states that a provider may have an initial hook up charge when the user connects with the system, and then subsequent charges for each minute that the user has access to a database...for each search within a content database or each time a user accesses a different library (column 1, lines 37-45). Furthermore, the cost may be pay per view, pay per byte or pay per time (column 2, lines 11-14 and column 4, lines 60-67).

However, the billing process of Dedrick does not depend from the number of times that a plurality of users previously accessed the same distributed information, as does amended independent claim 1. In the present invention, as well as in Dedrick, the billing seems to be done independently for each time the information is distributed. However, the billing system of the present invention directly depends from the number of times that a plurality of users previously accessed the system and downloaded the same information in order to determine a new billed cost to the existing or future users, wherein the new billed cost correlates to a predetermined distribution threshold of the information reached by the combination of the plurality of the users.

Indeed, Dedrick does not appear to suggest or teach that the cost of each subsequent download is determined based upon the number of times the same distributed information has been previously downloaded by a plurality of users, as does amended independent claim 1.

Therefore amended independent claim 1 is believed to be distinguishable from the applied combination of Rosenthal, Christenson and Dedrick.

For reasons similar to those described above with regard to amended independent claim 1, amended independent claims 14-16, 18, 20 and 22 are also believed to be distinguishable from the applied combination of Rosenthal, Christenson and Dedrick.

Further, claims 2-13, 17, 19 and 21 depend, either directly or indirectly, from one of amended independent claims 1, 14-16, 18, 20 and 22, and therefore are believed to be distinguishable from the applied combination of Rosenthal, Christenson and Dedrick for this reason alone.

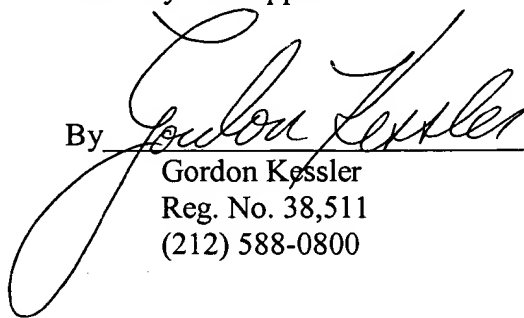
Applicants therefore, respectfully request that the rejection of claims 1-22 under 35 U.S.C. §103(a) be withdrawn.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the Applicants' undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where, in the reference or references, there is the basis for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,  
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By

A large, stylized handwritten signature in black ink, which appears to read "Gordon Kessler". The signature is written over a horizontal line.

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